

**From:** [LERS, EOIR \(EOIR\)](#)  
**To:** [All of CLAD \(EOIR\)](#); [All of Judges \(EOIR\)](#); [All of OCIJ JLC \(EOIR\)](#); [Allen, Patricia M. \(EOIR\)](#); [Anderson, Jill \(EOIR\)](#); [Baptista, Christina \(EOIR\)](#); [Bauder, Melissa \(EOIR\)](#); [Berkeley, Nathan \(EOIR\)](#); [BIA ATTORNEYS \(EOIR\)](#); [BIA BOARD MEMBERS \(EOIR\)](#); [BIA TEAM JLC](#); [BIA TEAM P \(EOIR\)](#); [Brazill, Caitlin \(EOIR\)](#); [Burgie, Brea \(EOIR\)](#); [Burgus, Elizabeth \(EOIR\)](#); [Calvert, Irvina \(EOIR\)](#); [Cardenas, Lupe \(EOIR\)](#); [Carr, Donna \(EOIR\)](#); [Cicchini, Daniel \(EOIR\)](#); [Cowles, Jon \(EOIR\)](#); [Crossley, Maurice \(EOIR\)](#); [Cudo, Relanie \(EOIR\)](#); [Curry, Michelle \(EOIR\)](#); [D'Angelo, Matthew \(EOIR\)](#); [Evans, Brianna \(EOIR\)](#); [Gonzalez, Robert \(EOIR\)](#); [Grodin, Edward \(EOIR\)](#); [Hammond, Nicole \(EOIR\)](#); [Hartman, Alexander \(EOIR\)](#); [Hess, Chris \(EOIR\)](#); [Kaplan, Matthew \(EOIR\)](#); [King, Jean \(EOIR\)](#); [Korniluk, Artur \(EOIR\)](#); [Lang, Steven \(EOIR\)](#); [LERS, EOIR \(EOIR\)](#); [Lovejoy, Erin \(EOIR\)](#); [Martinez, Casey L. \(EOIR\)](#); [Mitchell, Carla \(EOIR\)](#); [Morteo, Cristina \(EOIR\)](#); [Noferi, Mark \(EOIR\)](#); [Nunez, Steven \(EOIR\)](#); [O'Hara, Shelley M. \(EOIR\)](#); [Park, Jeannie \(EOIR\)](#); [Podgorski, Monika \(EOIR\)](#); [Powell, Karen B. \(EOIR\)](#); [Ramirez, Sergio \(EOIR\)](#); [Rimmer, Phillip \(EOIR\)](#); [Robbins, Laura \(EOIR\)](#); [Rodrigues, Paul A. \(EOIR\)](#); [Rodriguez, Bernardo \(EOIR\)](#); [Rothwarf, Marta \(EOIR\)](#); [Sanders, John W. \(EOIR\)](#); [Santoro, Christopher A \(EOIR\)](#); [Schaaf, Joseph R. \(EOIR\)](#); [Smith, Terry \(EOIR\)](#); [Stutman, Robin M. \(EOIR\)](#); [Swanwick, Daniel \(EOIR\)](#); [Taufa, Elizabeth \(EOIR\)](#); [Vayo, Elizabeth \(EOIR\)](#)  
**Cc:** [McHenry, James \(EOIR\)](#); [Reilly, Katherine \(EOIR\)](#); [Sheehey, Kate \(EOIR\)](#); [Moutinho, Deborah \(EOIR\)](#); [Alder Reid, Lauren \(EOIR\)](#); [Adams, Amanda \(EOIR\)](#); [Morgan, Kenosha \(EOIR\)](#); [Macri, Andrea \(EOIR\)](#); [Pease, Jeffrey \(EOIR\)](#); [EOIR Library \(EOIR\)](#)  
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**EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW**  
Office of Policy | Legal Education and  
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| Policy & Case Law Bulletin  
October 12, 2018

### Federal Agencies

DOJ

- [Attorney General Directs the Board to Refer its Decision in Matter of M-S- to Him for Review](#) — EOIR

27 I&N Dec. 476 (A.G. 2018)

The Attorney General will review issues relating to the authority to hold bond hearings for certain aliens screened from expedited removal proceedings. The Board's decision is stayed pending the Attorney General's review of the matter. The Attorney General invited the parties and interested amici to submit briefs on relevant points including: "Whether [Matter of X-K-](#), 23 I&N Dec. 731 (BIA 2005), which held that immigration judges may hold bond hearings for certain aliens screened from expedited removal proceedings under section 235(b)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1), into removal proceedings under section 240, 8 U.S.C. § 1229a, should be overruled in light of [Jennings v. Rodriguez](#), 138 S. Ct. 830 (2018)." He directed the parties to submit any briefs on or before November 2, 2018, and any reply briefs on or before November 9, 2018. He invited interested amici to submit briefs on or before November 9, 2018.

- [Attorney General Remands Matter of M-G-G- to the Board](#) — EOIR

27 I&N Dec. 475 (A.G. 2018)

The Attorney General will not review the Board's determination that the respondent was eligible to be released on bond, given that the respondent is no longer in the United States, having been removed to Guatemala pursuant to a final order of removal. The Attorney General has remanded this case to the Board "for any administrative action the Board deems necessary."

- [Justice Department Settles Immigration-Related Discrimination Case](#) — EOIR

On October 9, 2018, the Justice Department announced that it had reached a settlement with Mar-Jac Poultry, Inc., a poultry processing company in Georgia. The settlement

resolves a long-standing lawsuit filed by the Justice Department alleging that Mar-Jac Poultry violated the Act by discriminating against work-authorized non-U.S. citizens when verifying their work authorization. “Even an employer that hires many non-U.S. citizens can violate the INA if it treats employees differently based on citizenship status or national origin when verifying their identity and work authorization,” said Acting Assistant Attorney General John Gore of the Civil Rights Division. “This case demonstrates the Department’s commitment to ensuring that all employers implement the employment eligibility verification process in a non-discriminatory manner.” The Civil Rights Division’s Immigrant and Employee Rights Section (IER) is responsible for enforcing the anti-discrimination provision of the Act.

- [Virtual Law Library Weekly Update](#) — EOIR

This update includes resources recently added to EOIR’s internal or external Virtual Law Library, such as Federal Register Notices, country conditions information, and links to recently-updated immigration law publications.

#### DHS

- [Re-establishment of a Computer Matching Program Between DHS, USCIS, and the California Department of Social Services](#)

On October 9, 2018, DHS issued public notice of the re-establishment of a computer matching program between DHS, USCIS, and the California Department of Social Services (CA-DSS), titled “Verification Division DHS-USCIS/CA-DSS.” The purpose of the program is to provide CA-DSS with electronic access to immigration status information from certain federal immigration records. CA-DSS will use the information obtained to determine whether non-U.S. citizen applicants possess the requisite immigration status to be eligible for the Temporary Assistance to Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) administered by CA-DSS.

- [DHS Issues Waiver to Expedite Border Wall Gate Construction Project in Texas](#)

On October 10, 2018, DHS issued a waiver “to ensure the expeditious construction of gates in existing wall structure near the international border in Texas.” The waiver was published in the [Federal Register](#).

#### DOS

- [DOS Updates 9 FAM](#)

DOS revised [9 FAM § 502.5-3\(C\)\(1\) paragraph \(1\)\(b\)](#), Two-Step Acquisition of U.S. Government Employee Special Immigrant Status, to indicate that posts should submit supporting evidence with initial advisory opinion (AO) requests.

### Supreme Court

#### CERT. DENIED

- [Villegas-Sarabia v. Sessions](#)

No. 17-1559, 2018 U.S. LEXIS 5967 (Oct. 9, 2018)

[Question Presented](#): Is misprision of felony categorically a crime involving moral turpitude?

- [Hernandez v. Sessions](#)

No. 18-172, 2018 U.S. LEXIS 6016 (Oct. 9, 2018))

[Question Presented](#): Whether the Petitioner is eligible for withholding of removal under 8 U.S.C. § 1213(b)(3)(B) due to the lack of a strong presumption that his drug trafficking offense is a “particularly serious crime.”

- [Singh v. Sessions](#)

No. 18-5285, 2018 U.S. LEXIS 5934 (Oct. 9, 2018)

Question(s) presented are not available at this time.

### Second Circuit

- [Brown v. Sessions](#)

No. 17-2468, 2018 WL 4846522 (2d Cir. Oct. 4, 2018) (unpublished) (Notice to Appear; Continuance)

The Second Circuit denied the PFR, concluding that the IJ did not abuse her discretion by accepting Form I-261, which amended the charges in the original NTA, where “DHS filed amended charges two days after the hearing at which the IJ took pleadings on the original charges, and Brown was not prejudiced because he had time to reply to the additional charges in his brief addressing removability.” Furthermore, the court concluded that the IJ did not abuse her discretion in denying a continuance for lack of good cause “[b]ecause Brown did not file any collateral attack in state court” after “the IJ granted two continuances for Brown to seek post-conviction relief and directed him to provide evidence that he had filed motions in state court.”

### Third Circuit

- [Padilla-Maldonado v. Att’y Gen. United States](#)

No. 17-3097, 2018 WL 4896385 (3d Cir. Oct. 9, 2018) (unpublished) (Corroboration)

The Third Circuit granted the PFR in part and remanded the case, holding that while “it was reasonable for the IJ to expect Padilla-Maldonado to corroborate her claims with testimony or affidavits from [her aunt and her former acquaintance in the U.S. with whom she had a long-distance relationship], when it appears realistic based on their proximity to Padilla-Maldonado in the United States, and because they were contemporaneously aware of [the domestic] abuse [at the hands of her former partner],” the IJ did not give Padilla-Maldonado “adequate notice of what corroboration would be expected of her and that she would fail to meet her burden absent this corroboration.” The court denied the PFR in part, concluding that Padilla-Maldonado did not “demonstrate that she was likely to be subjected to torture from, or at the acquiescence of, the Salvadoran government.”

### Sixth Circuit

- [United States v. Richardson](#)

Nos. 17-2157/2183, 2018 WL 4924782 (6th Cir. Oct. 11, 2018) (Crime of Violence)

The Sixth Circuit affirmed the district court’s decision to reinstate Richardson’s original sentence, concluding that Richardson’s conviction under 18 U.S.C. § 924(c) (for aiding and abetting the use of a firearm during a crime of violence) is a crime of violence under the force clause, pursuant to 18 U.S.C. § 924(c)(3)(A) (analogous to 18 U.S.C. § 16(a)). In so holding, the court agreed with the First, Tenth, and Eleventh Circuits, all of which have held that aiding and abetting Hobbs Act robbery is a crime of violence under § 924(c)(3)(A).

### Eighth Circuit

- [Molina-Cabrera v. Sessions](#)

No. 17-2227, 2018 WL 4844238 (8th Cir. Oct. 5, 2018) (Asylum)

The Eighth Circuit denied the PFR, affirming the IJ's and Board's decisions to deny asylum and withholding of removal. The court agreed with the IJ and Board that "the harm Molina-Cabrera suffered was not enough to constitute past persecution," particularly given that Molina-Cabrera's beating, much of which was spent talking, lasted only twenty-five to thirty minutes, the threat that Molina-Cabrera "better think about it" was not sufficiently specific or imminent, and Molina-Cabrera did not require immediate medical attention, having suffered only minor physical injuries from the beating. Furthermore, the court concluded that Molina-Cabrera did not demonstrate a well-founded fear of future persecution because his persecutors have not approached or threatened his grandmother since 2012, his brother and sister continue to live in Azogues, Ecuador, and have not been threatened or approached by his persecutors, and Molina-Cabrera was able to relocate in Ecuador without incident.

### Ninth Circuit

- [Innova Solutions, Inc. v. Baran](#)

No. 17-CV-03674-VKD, 2018 WL 4913632 (N.D. Cal. Oct. 10, 2018)) (unpublished) (Visa Petition)

The district court denied Innova's motion for summary judgment and granted the government's cross-motion for summary judgment. USCIS denied Innova's Petition for a Nonimmigrant Worker, requesting an H-1B visa on behalf of a beneficiary it sought to recruit from India, on the ground that Innova did not establish that the Technical Recruiter position was a "specialty occupation" under the Act and related regulations. Upon reviewing the criteria for the "specialty occupation," the court concluded that "Innova has not shown that USCIS's denial of its petition was arbitrary and capricious."